

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH  
CAROLINA ASHEVILLE DIVISION**  
Civil Action No. 1:22-cv-00122

JUAN OSPINA,

Plaintiff,

vs.

HORD SERVICES, INC., ARTHUR  
SERVICES, INC., HSI LAND CLEARING,  
LLC, HSI LAND DEVELOPMENT, LLC,  
HORD'S CONTAINER SERVICE, LLC  
(F/K/A HORD BROTHERS LLC), AND  
DWAYNE HORD, AN INDIVIDUAL,

HCSs.

**DEFENDANT HORD'S  
CONTAINER SERVICE, LLC'S  
ANSWER TO PLAINTIFF'S  
AMENDED COMPLAINT**

NOW COMES defendant Hord's Container Service, LLC ("HCS"), by and through undersigned counsel, and responds to the Amended Complaint filed by Juan Ospina ("Plaintiff") as follows:

**ANSWER**

HCS responds to the allegations of each of the numbered paragraphs of the Complaint as follows, denying all allegations not specifically addressed.

**Overview**

The "Overview" section at the beginning of Plaintiff's Amended Complaint does not require a response from HCS and the Amended Complaint speaks for itself. To the extent a response is required, denied.

**Parties, Jurisdiction, and Venue**

1. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

2. Admitted upon information and belief.
3. Admitted upon information and belief.
4. Admitted upon information and belief.
5. Admitted upon information and belief.
6. Admitted upon information and belief.
7. Admitted upon information and belief.
8. Admitted upon information and belief.
9. Admitted upon information and belief.
10. Admitted.
11. It is admitted that Cameron Hord is the sole owner and managing member of Hord's Container Service, LLC. Otherwise denied.
12. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.
13. This paragraph of the Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, denied.
14. This paragraph of the Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, denied.
15. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.
16. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

### Factual Allegations

17. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

18. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

19. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

20. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

21. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

22. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

23. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

24. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

25. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

26. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

27. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

28. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

29. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

30. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

31. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

32. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

33. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

34. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

35. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

36. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

37. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

38. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

39. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

40. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

41. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

42. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

43. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

44. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

45. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

46. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

47. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

48. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

49. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

50. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

51. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

52. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

53. HCS is without knowledge to admit or deny the allegations of this paragraph of the Complaint. To the extent a response is required, denied.

**FOR A FIRST CAUSE OF ACTION**  
**(VIOLATIONS OF THE DUTIES OF GOOD FAITH, DUE CARE, AND LOYALTY**  
**UNDER THE NC BUSINESS CORPORATION ACT)**  
**(AGAINST DEFENDANT HORD)**

54. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

55. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

56. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

57. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

58. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

59. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

60. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

61. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

62. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A SECOND CAUSE OF ACTION**  
**(VIOLATIONS OF THE SHAREHOLDER'S RIGHT TO VOTE UNDER THE NC**  
**BUSINESS CORPORATION ACT)**  
**(AGAINST DEFENDANTS HSI, INC. AND HORD)**

63. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

64. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

65. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

66. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

67. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A THIRD CAUSE OF ACTION**  
**(VIOLATIONS OF THE SHAREHOLDER'S RIGHT TO INSPECT UNDER THE NC**  
**BUSINESS CORPORATION ACT)**  
**(AGAINST DEFENDANTS HSI, INC. AND HORD)**

68. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

69. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

70. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

71. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

72. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

73. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A FOURTH CAUSE OF ACTION**  
**(BREACH OF CONTRACT)**  
**(AGAINST DEFENDANTS HSI, INC. AND HORD)**

74. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

75. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

76. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

77. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

78. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.



79. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

80. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

81. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

82. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A FIFTH CAUSE OF ACTION**  
**(BREACH OF FIDUCIARY DUTY)**  
**(AGAINST DEFENDANT HORD)**

83. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

84. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

85. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

86. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

87. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A SIXTH CAUSE OF ACTION**  
**(FRAUD IN THE INDUCEMENT)**  
**(AGAINST DEFENDANTS HSI, INC. AND HORD)**

88. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

89. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

90. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

91. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

92. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

93. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

94. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

95. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

96. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

97. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

98. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

99. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

100. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR A SEVENTH CAUSE OF ACTION**  
**(FRAUD)**  
**(AGAINST DEFENDANTS HSI, INC. AND HORD)**

101. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

102. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

103. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

104. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

105. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

106. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

107. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

108. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

109. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

110. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

111. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

112. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

113. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

114. This paragraph of the Amended Complaint is not direct at HCS. To the extent a response is required, denied.

**FOR AN EIGHTH CAUSE OF ACTION**  
**(UNFAIR AND DECEPTIVE TRADE PRACTICES)**  
**(AGAINST ALL DEFENDANTS)**

115. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

116. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

117. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

118. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

119. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

120. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

121. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

122. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

**FOR A NINTH CAUSE OF ACTION**  
**(CIVIL CONSPIRACY)**  
**(AGAINST ALL DEFENDANTS)**

123. HCS incorporates and re-alleges the preceding paragraphs as if fully set forth verbatim herein.

124. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

125. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

126. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

127. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

128. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

129. Denied as to HCS. Otherwise HCS is without knowledge to admit or deny the remaining allegations of this paragraph of the Complaint and therefore denies same.

### **AFFIRMATIVE DEFENSES**

Having fully answered Plaintiff's Amended Complaint, HCS pleads the following affirmative defenses without waiving any arguments that it may be entitled to assert regarding the burden of proof, legal presumptions, or other legal characterizations.

#### **Failure to State a Claim**

The Amended Complaint fails to state claims upon which relief can be granted against HCS and fails to satisfy the *Twombly-Iqbal* pleading standards as to HCS and should be dismissed pursuant to Fed. R. Civ. P. 12(b)(6) and other applicable law.

#### **Limitations Periods**

Plaintiff's claims fail to the extent they are barred in whole or in part due to the statutes of limitations and/or repose.

#### **Laches / Waiver / Estoppel**

Plaintiff's claims fail to the extent they are barred in whole or in part by the doctrines of laches, waiver, or estoppel.

#### **Baseless Unfair Trade Practices Claim**

Plaintiff's alleged unfair trade practices claim against HCS under N.C.G.S. Chapter 75 is baseless and entitles HCS to recover its attorneys' fees and costs from Plaintiff pursuant to N.C.G.S. §75-16.1.

#### **Failure to Mitigate**

Plaintiff's claims fail to the extent Plaintiff failed to mitigate his damages.

#### **Reservation of Defenses**

HCS reserves the right to amend and/or supplement its responses and affirmative defenses set forth herein.

**PRAYER FOR RELIEF**

WHEREFORE, HCS requests the following:

1. That Plaintiff have and recover nothing from HCS and that the claims against HCS be dismissed with prejudice;
2. That HCS have and recover its costs in this action, to include its reasonable attorney's fees as allowed by law; and
3. That HCS recover such other relief as is proper.

This the 26<sup>th</sup> day of October, 2023.

/s/Edward B. Davis

Edward B. Davis, N.C. State Bar No. 27546

BELL, DAVIS & PITT, P.A.

227 W. Trade Street, Suite 1800

Charlotte, North Carolina 28202

Telephone: (704) 227-0400

Facsimile: (704) 227-0178

Email: ward.davis@belldavispitt.com

*Counsel for Hord's Container Service, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below the foregoing document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to all counsel of record.

This the 26<sup>th</sup> day of October 2023.

/s/ Edward B. Davis

Edward B. Davis